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Attorneys for Plaintiff
Johnson & Johnson Health Care Systems Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.,

Plaintiff,
vs.

SAVE ON SP, LLC,
EXPRESS SCRIPTS, INC., and
ACCREDITO HEALTH GROUP, INC.,

Defendants.

: Civil Action No. 22-2632 (JKS) (CLW)
:
: **DECLARATION OF**
: **JEFFREY J. GREENBAUM IN**
: **FURTHER SUPPORT OF MOTION**
: **FOR LEAVE TO SUPPLEMENT**
: **THE AMENDED COMPLAINT**
:
: *Document electronically filed*

JEFFREY J. GREENBAUM, of full age, hereby declares as follows:

1. I am a Member of the law firm Sills Cummis & Gross P.C. and counsel to Plaintiff Johnson & Johnson Health Care Systems Inc. ("JJHCS").

2. I submit this Declaration in further support of JJHCS's Motion for Leave to Supplement the Amended Complaint.

3. Attached as **Exhibit 1** is a true and correct copy of an email sent from counsel for SaveOnSP to the Special Master on November 12, 2024.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 26, 2024

/s/ Jeffrey J. Greenbaum
Jeffrey J. Greenbaum

Exhibit 1

Famakinwa, Sade (x2202)

From: Meredith Nelson <mnelson@selendygay.com>
Sent: Tuesday, November 12, 2024 6:43 PM
To: Wolfson, Freda; Fang, Wayne
Cc: _cg J&J-SaveOn; LoBiondo, George (x2008); ~jgreenbaum@sillscummis.com; ~klieb@sillscummis.com; Philippe Selendy; Andrew Dunlap; Elizabeth Snow; Hannah Miles; Matthew Nussbaum; EWohlforth@rc.com; SGalli@rc.com; Jeremy.sternberg@hklaw.com; Andrew.solinger@hklaw.com; emily.robey-phillips@hklaw.com; Krithika.rajkumar@hklaw.com; james.lockett@hklaw.com; Chris.Smith@huschblackwell.com; Sarah.Hellmann@huschblackwell.com; Kate.Ledden@huschblackwell.com; Alex.Schnarre@huschblackwell.com; Christiana.Ogletree@huschblackwell.com; ~Christine.Herrmann@huschblackwell.com; Brittany.Barrios@huschblackwell.com; Cindy.Missey@huschblackwell.com; ~mberman@hdrbb.com
Subject: RE: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW) - request re briefing

External: Think before you click.

Dear Judge Wolfson and Mr. Fang,

We write in response to J&J's request to extend the briefing schedule for both its motion to strike and its motion to seal portions of SaveOn's answer.

First, SaveOn disagrees with J&J's proposal to delay briefing on its motion to strike portions of SaveOn's answer until after the Court resolves J&J's motion to supplement its complaint. Those motions are independent. J&J's motion to supplement deals exclusively with five proposed new allegations that are not in its current complaint, are not addressed in SaveOn's answer to that complaint, and are thus not at issue in J&J's motion to strike portions of that answer. Because the resolution of the motion to supplement will have no impact on the motion to strike, there is no reason to delay resolving the motion to strike until after the motion to supplement is decided.

J&J's proposed delay would be especially inappropriate because J&J already recently sought and received, with SaveOn's consent, an extension of its time to file its reply in support of its motion to supplement. When it sought SaveOn's consent for this extension, J&J did not disclose that it would seek to delay the resolution of two other motions until after the Court resolves its motion to supplement. While SaveOn has no objection to a short extension of J&J's time to file its motion to strike, that motion should be briefed now, not after resolution of another, tangentially related motion.

Second, SaveOn proposes that J&J file its motion to seal alongside its motion to strike, so that Your Honor can resolve both motions simultaneously. Given the high bar for both motions to strike and seal pleadings in this District, *see Ruiz v. New Jersey Dep't of Corr.*, 2020 WL 2111013, at *10 (D.N.J. May 1, 2020); *Eisai Co. v. Teva Pharms. USA, Inc.*, 629 F. Supp. 2d 416, 424–25 (D.N.J. 2009), as amended (July 6, 2009), and the overlapping subject matter of these two motions, this approach will be most efficient. SaveOn agrees that its answer should remain under temporary seal pending the resolution of these motions.

Respectfully submitted,

Meredith Nelson

Meredith Nelson

Associate [\[Email\]](#)

Selendy Gay PLLC [\[Web\]](#)

Pronouns: she, her, hers

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+1 918.200.3148 [M]

From: Fang, Wayne <WFang@lowenstein.com>

Sent: Friday, November 8, 2024 4:48 PM

To: Meredith Nelson <mnelson@selendygay.com>; Wolfson, Freda <FWolfson@lowenstein.com>

Cc: _cg J&J-SaveOn <JJSaveOn@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Jeffrey J. Greenbaum <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Philippe Selendy <pselendy@selendygay.com>; Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Hannah Miles <hmiles@selendygay.com>; Matthew Nussbaum <mnussbaum@selendygay.com>; EWohlforth@rc.com; SGalli@rc.com; Jeremy.sternberg@hklaw.com; Andrew.solinger@hklaw.com; emily.robey-phillips@hklaw.com; Krithika.rajkumar@hklaw.com; james.lockett@hklaw.com; Chris.Smith@huschblackwell.com; Sarah.Hellmann@huschblackwell.com; Kate.Ledden@huschblackwell.com; Alex.Schnarre@huschblackwell.com; Christiana.Ogletree@huschblackwell.com; ~Christine.Herrmann@huschblackwell.com <Christine.Herrmann@huschblackwell.com>; Brittany.Barrios@huschblackwell.com; Cindy.Missey@huschblackwell.com; ~mberman@hdrbb.com <mberman@hdrbb.com>

Subject: RE: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW) - request re briefing

Counsel:

Judge Wolfson will permit counsel for SaveOnSP to respond to Plaintiff's extension request. That response must be submitted by November 12, 2024.

Thank you, and have a good weekend.

Wayne

Wayne Fang

Senior Counsel

Lowenstein Sandler LLP

T: (862) 926-2813



From: Meredith Nelson <mnelson@selendygay.com>

Sent: Friday, November 8, 2024 12:04 PM

To: Wolfson, Freda <FWolfson@lowenstein.com>; Fang, Wayne <WFang@lowenstein.com>

Cc: _cg J&J-SaveOn <JJSaveOn@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Jeffrey J. Greenbaum <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Philippe Selendy <pselendy@selendygay.com>; Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Hannah Miles <hmiles@selendygay.com>; Matthew Nussbaum <mnussbaum@selendygay.com>; EWohlforth@rc.com; SGalli@rc.com; Jeremy.sternberg@hklaw.com; Andrew.solinger@hklaw.com; emily.robey-phillips@hklaw.com;

Krithika.rajkumar@hklaw.com; james.lockett@hklaw.com; Chris.Smith@huschblackwell.com; Sarah.Hellmann@huschblackwell.com; Kate.Ledden@huschblackwell.com; Alex.Schnarre@huschblackwell.com; Christiana.Ogletree@huschblackwell.com; ~Christine.Herrmann@huschblackwell.com; <Christine.Herrmann@huschblackwell.com>; Brittany.Barrios@huschblackwell.com; Cindy.Missey@huschblackwell.com; ~mberman@hdrbb.com <mberman@hdrbb.com>

Subject: RE: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW) - request re briefing

Dear Judge Wolfson and Mr. Fang,

On behalf of Save On SP, LLC (“SaveOn”), we respectfully request the opportunity to respond to J&J’s request for an extension by the end of the day on Tuesday, November 12, 2024, the next business day after today. J&J did not meet and confer with SaveOn before making its request, and SaveOn needs time to consult with its client before responding.

Respectfully submitted,

Meredith Nelson

Meredith Nelson

Associate [\[Email\]](#)

Selendy Gay PLLC [\[Web\]](#)

Pronouns: she, her, hers

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From: LoBiondo, George (x2008) <globiondo@pbwt.com>

Sent: Friday, November 8, 2024 11:14 AM

To: Wolfson, Freda <FWolfson@lowenstein.com>; Fang, Wayne <WFang@lowenstein.com>

Cc: _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>;

~klieb@sillscummis.com <klieb@sillscummis.com>; Philippe Selendy <pselendy@selendygay.com>; Andrew Dunlap

<adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson

<cmnelson@selendygay.com>; Hannah Miles <hmiles@selendygay.com>; Matthew Nussbaum

<mnussbaum@selendygay.com>; EWohlforth@rc.com; SGalli@rc.com; Jeremy.sternberg@hklaw.com;

Andrew.solinger@hklaw.com; emily.robey-phillips@hklaw.com; Krithika.rajkumar@hklaw.com;

james.lockett@hklaw.com; Chris.Smith@huschblackwell.com; Sarah.Hellmann@huschblackwell.com;

Kate.Ledden@huschblackwell.com; Alex.Schnarre@huschblackwell.com; Christiana.Ogletree@huschblackwell.com;

~Christine.Herrmann@huschblackwell.com <Christine.Herrmann@huschblackwell.com>;

Brittany.Barrios@huschblackwell.com; Cindy.Missey@huschblackwell.com; ~mberman@hdrbb.com

<mberman@hdrbb.com>

Subject: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW) - request re briefing

Dear Judge Wolfson:

We write to request a modified briefing schedule for two overlapping motions relating to SaveOnSP’s answer in this matter.

First, JJHCS plans to move to strike portions of SaveOnSP’s answer, which consist of extraneous position statements bolted onto the pleading before the actual answer. These contain hundreds of paragraphs of superfluous and scandalous material, as well as highly improper disclosures of sensitive information regarding JJHCS’s mitigation efforts that is protected by the Discovery and Confidentiality Order in this case. These extraneous argument sections are not properly part of SaveOnSP’s answer and have been added to the pleading in a transparent attempt to render JJHCS’s documents public.

Under Rule 12(f)(2), JJHCS’s contemplated motion to strike would be due on November 21, three weeks after SaveOnSP filed its corrected answer. JJHCS proposes to defer briefing and consideration of this motion until Your Honor has

resolved JJHCS's motion to supplement the amended complaint. This way, the Court and the parties will not need to repeatedly brief issues relating to SaveOnSP's answer, which may soon be superseded anyway if JJHCS is permitted to supplement its amended complaint. Accordingly, JJHCS proposes that its deadline to move to strike be 30 days following either (a) SaveOnSP's filing of its supplemented and amended answer (if the Court grants JJHCS's motion to supplement), or (b) a decision denying JJHCS's motion to supplement.

Second, JJHCS's deadline to move to seal or redact SaveOnSP's corrected answer is November 14. Consistent with how Your Honor sequenced the recent sealing motion on JJHCS's amended complaint, JJHCS proposes that SaveOnSP's answer remain under temporary seal until further Court Order and pending the outcome of the above-referenced motions to supplement and strike. The resolution of those motions may eliminate the need for JJHCS to seek permanent sealing or redaction if the sections at issue are stricken. And if they are not, Your Honor can set a new briefing schedule on sealing and redaction issues after the other motions are resolved.

As always, we appreciate Your Honor's attention to these issues, and are available to answer any questions Your Honor may have.

Respectfully submitted,

George LoBiondo
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